

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

BETTY JEAN TAYLOR,)	
)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:09-CV-283-DAS
)	
MICHAEL J. ASTRUE,)	
COMMISSIONER OF)	
SOCIAL SECURITY,)	
)	
Defendant.)	

ORDER OF REVERSAL AND REMAND

On unopposed motion of Michael J. Astrue, Commissioner of the Social Security Administration, Defendant in the above cause and pursuant to the power of this court to enter a judgment affirming, modifying, or reversing the Commissioner's decision with remand in Social Security actions under sentence four of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), this court hereby reverses the Commissioner's decision and remands Plaintiff's claim for further development of the record and the issuance of a new decision.

The ALJ's step five finding was based on a hypothetical question that did not match Plaintiff's residual functional capacity. The Plaintiff's residual functional capacity permitted her to stand for 15 minutes, but the ALJ found the Plaintiff could perform other work based on a hypothetical that permitted her to stand for twenty minutes (Tr. 13, 16, 40-42). The Plaintiff's case must be remanded because the ALJ's hypothetical

question must exactly match his residual functional capacity finding. See, for example, Masterson v. Barnhart, 309 F.3d 267, 273 (5th Cir. 2002). See also 20 C.F.R. §§ 404.1520(f); 416.920(f) (2009).

On remand, the Appeals Council must remand the case to an ALJ. The ALJ will reassess the Plaintiff's ability to work based upon an accurate hypothetical.

The Clerk of the Court will enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED this the 25th day of May, 2010.

/s/ David A. Sanders
UNITED STATES MAGISTRATE JUDGE